

| आयकर अपीलीय अधिकरण न्यापीठ, मुंबई |
IN THE INCOME TAX APPELLATE TRIBUNAL
"G" BENCH, MUMBAI

BEFORE SHRI SAKTIJIT DEY, HON'BLE VICE PRESIDENT
&
SHRI NARENDRA KUMAR BILLAIYA, HON'BLE ACCOUNTANT MEMBER

I.T.A. No. 6452/Mum/2024

Assessment Year: 2010-11

M/s. Sai Diamonds HW 6071/72, Bharat Diamond Bourse Bandra Kurla Complex Mumbai - 400051 [PAN: AAASF6126M]	Vs	ACIT - Circle 19(3), Mumbai
अपीलार्थी/ (Appellant)		प्रत्यर्थी/ (Respondent)

I.T.A. No. 6509/Mum/2024

Assessment Year: 2010-11

ACIT - Circle 19(3), Mumbai	Vs	M/s. Sai Diamonds HW 6071/72, Bharat Diamond Bourse Bandra Kurla Complex Mumbai - 400051 [PAN: AAASF6126M]
अपीलार्थी/ (Appellant)		प्रत्यर्थी/ (Respondent)

Assessee by :	Ms. Mrugakshi K. Joshi, Advocate
Revenue by :	Shri Bhangapatil Pushkaraj Ramesh, Sr. D/R

सुनवाई की तारीख/Date of Hearing : 13/02/2025
घोषणा की तारीख /Date of Pronouncement: 20/02/2025

आदेश/ORDER

PER NARENDRA KUMAR BILLAIYA, AM:

I.T.A. No. 6452/Mum/2024 & I.T.A. No. 6509/Mum/2024 are cross appeals preferred by the assessee and the revenue against the order of the Id. CIT(A) - 51, Mumbai, pertaining to AY 2010-11.

2. The assessee is aggrieved by the addition of Rs. 2,37,922/- being 6% of Rs.39,65,372/- considered as bogus purchases. The revenue is in

appeal against the restriction of the addition of Rs.39,65,372/- to Rs.2,37,922/-.

3. Briefly stated, the facts of the case are that on receiving information from DGIT (Inv.), Mumbai, the AO came to know that the assessee has taken accommodation entries from a transaction with Rajendra Jain Group amounting to Rs.39,65,372/-. The name of the entry provider was Kalash Enterprises. The AO treated the entire gains of bogus purchases as income of the assessee and added the same. The addition was challenged before the Id. CIT(A) and before the appeal could be decided, the Co-ordinate Bench in assessee's own case in AY 2012-13, on identical set of facts, adopted 6% as fair estimation of the profit element imbibed in alleged bogus purchases and directed the AO to restrict the disallowance to 6% of the bogus purchase, reduced by the gross profit margin already declared by the assessee in respect of alleged bogus purchases.

4. However, taking a leaf out of the above findings of the Co-ordinate Bench, the Id. CIT(A) simply directed the AO to restrict the disallowance to 6% of the bogus purchases without giving any relief to the gross profit already declared by the assessee on the alleged bogus purchases.

5. We find that in the year under consideration, the gross profit shown by the assessee is 3.67%. Therefore, the assessee will get relief to this extent. The AO is directed to restrict the addition to 2.33% of the

alleged bogus purchase which will be in line with the decision of the Co-ordinate Bench (*supra*).

6. In the result, appeal of the assessee is partly allowed and that of the revenue is dismissed.

Order pronounced in the Court on 20th February, 2025 at Mumbai.

Sd/-
(SAKTIJIT DEY)
VICE-PRESIDENT

Sd/-
(NARENDRA KUMAR BILLAIYA)
ACCOUNTANT MEMBER

Mumbai, Dated /02/2025

Sd/-

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent
3. संबंधित आयकर आयुक्त / Concerned Pr. CIT
4. आयकर आयुक्त (अपील)/ The CIT(A)-
5. विभागीय प्रतिनिधि , आयकर अपीलुय अधलकरण, मुंबई /DR,ITAT, Mumbai,
6. गार्ड फाई/ Guard file.

आदेशानुसार/ BY ORDER
TRUE COPY

Assistant Registrar
आयकर अपीलुय अधलकरण
ITAT, Mumbai